LOLA DYKES, ET AL : NUMBER: 546,516, “B”

VERSUS : FIRST JUDICIAL DISTRICT COURT

JOHN WILLIAMS, ET AL : CADDO PARISH, LOUISIANA

**RULING ON LIABILITY**

**AND APPORTIONMENT OF FAULT**

 Trial was held October 13, 2011. The Court heard testimony from Lola Dykes and John Williams and received into evidence numerous exhibits. After hearing closing arguments, reviewing the evidence and applicable law, the court concludes that John Williams and his insurer, Imperial Fire & Casualty Company, are liable for damages incurred by Lola Dykes and the six (6) other plaintiffs in the accident of June 26, 2010, subject to the following apportionment: John Williams is 51% at fault and the phantom tortfeasor is 49% at fault.

 On the night of June 26, 2010, John Williams was driving too fast under the following circumstances: (1) the roadway was slick with little light illumination; (2) he entered what the Court believes to be a soft “L” shaped curve; and (3) Williams had six (6) children in the two rear bench seats of his suburban truck. The Court feels that when one is transporting minor children – particularly six children – one should be particularly careful and prudent. Under these conditions and circumstances, Mr. Williams was driving too fast, whether he was within the speed limit or not.

 Mr. Williams over-reacted to the impending danger and suddenly steered his vehicle to his right more than what was necessary. Certainly, had Mr. Williams been traveling at a slower speed and in a more prudent manner, he would likely have been able to avoid the collision.

 Of course, the driver of the vehicle described by Mr. Williams as a “black Roadmaster” is also at fault for traveling too fast and probably crossing the center lane of a curve of the roadway. This unknown driver is characterized in the jurisprudence as a phantom tortfeasor and is subject to an assignment of fault.

 After careful consideration, the Court concludes that Mr. Williams is 51% at fault in the cause of the collision and the phantom tortfeasor is 49% at fault.

 Most of the injuries sustained by Ms. Dykes and her six children (two of whom are Mr. Williams’ children) were relatively minor and some of the injuries constitute minor aggravation of pre-existing conditions. In light of that finding of minor injuries as well as the apportionment of fault, counsel shall submit a concise post-trial memorandum on quantum on or before October 21, 2011.

 Signed this 14th day of October, 2011 in Shreveport, Caddo Parish, Louisiana.

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 SCOTT J. CRICHTON

 DISTRICT JUDGE

DISTRIBUTION:

Steven D. Carby, Counsel for Lola Dykes, et al

Paul D. Oberle, Jr., Counsel for John Williams and Imperial Fire and Casualty Insurance Co.